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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,065	03/04/2002	Anders Vinberg	063170.7028 (20000036-CIP)	8010
5073 7590 03/28/2006 BAKER BOTTS L.L.P. 2001 ROSS AVENUE SUITE 600 DALLAS, TX 75201-2980			EXAMINER LEE, PHILIP C	
			ART UNIT 2154	PAPER NUMBER

DATE MAILED: 03/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/091,065

Applicant(s)

VINBERG, ANDERS

Examiner

Philip C. Lee

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 February 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

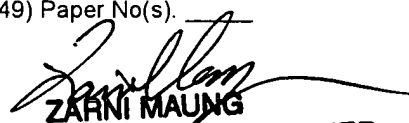
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: none.
Claim(s) objected to: none.
Claim(s) rejected: 1-9, 11-20, 31 and 32.
Claim(s) withdrawn from consideration: 21-30.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached paper.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____


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SUPERVISORY PATENT EXAMINER

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1. The request for reconsideration has been entered and considered but it is not persuasive.

2. In the remarks, applicant argues that

(1) Touboul-Grace combination does not teach, “analyzing the subject object associated with the alert condition and the relevant system object to obtain context data.”

(2) No motivation, either in the cited references or in the knowledge generally available to one of ordinary skill in the art at the time of the invention to make the proposed combination of Touboul and Grace.

(3) No motivation, either in the cited references or in the knowledge generally available to one of ordinary skill in the art at the time of the invention to make the proposed combination of Touboul, Grace and Cox.

(4) The combination of Touboul, Grace and Cox is improper because Cox is an non-analogous art.

3. In response to point (1), Touboul-Grace combination taught analyzing the subject system object associated with the alert condition and the relevant system object to obtain context data.

In particular, Touboul taught the step of analyzing the subject system object associated with the alert condition to obtain context data (col. 5, lines 7-10) (i.e., Touboul taught a system that analyzes the existing alerts to determine the appropriate corrective procedure for each event).

Touboul further taught an agent (part of the system) determines if there is an error condition. If so, the error is recorded as an alert which is sent to the monitor and includes context data (e.g. type of problem, the workstation on which it occurred, name of the program which caused the

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error, and a recommended corrective action) (col. 7, lines 40-49). This means that Toboul's system must analyze the subject system object (e.g., the type, the location, the program and the workstation) associated with the alert condition (i.e., the error condition) in order to obtain context data such as the type of problem, the workstation on which it occurred, the name of the program which caused the error, and a recommended corrective action.

4. Touboul did not teach a relevant system object. Grace taught identifying alarm condition which are likely to be related, in the sense either that one is a direct consequence of the other, or that they have some common underlying cause (col. 3, lines 12-15) and identifying associations between resources within an alarm dependency hierarchy (col. 7, lines 39-42) (i.e. identifying the relevant system object). Grace further taught using historical alarm condition data (the times at which alarms conditions are likely to be related, in the sense either that one is a direct consequence of the other, or that they have some common underlying cause occurred (col. 2, lines 59-61)) to determine the relationship between alert conditions of components (col. 2, line 49-col. 3, line10). This means that Grace's system must analyze the relevant system object (i.e. historical alarm condition data such as the times at which alarms conditions such as, alarm condition which are likely to be related, in the sense either that one is a direct consequence of the other, or that they have some common underlying cause, occurred) in order to determine the relationship between alert condition of components.

5. Thus, the combination of Touboul and Grace taught the step of analyzing the subject system object associated with the alert condition and the relevant system object to obtain context data.

6. In response to point (2), in the office action mailed on 1/10/06, page 4, paragraph 13, motivation for combining the references of Touboul and Grace was provided. The cited paragraph of the office action states: "It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Touboul and Grace because Grace's teaching of identifying a relevant system object would increase efficiency of Touboul's system by avoiding time wasted on investigating the sources of all the alert condition associated with dependent resources (col. 1, lines 40-56)."

7. The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Grace taught that the root cause of all the alert conditions (including alerts of dependent resources) can be avoided by determine the relationship between the alert conditions from analysis of the identified relevant system object. Thus, one of ordinary skill in the art knows time and processing resources of investigating the sources of alert would not be wasted, increasing the efficiency of the system.

8. In response to point (3), in the office action mailed on 1/10/06, page 6, paragraph 23, motivation for combining the references of Touboul, Grace and Cox was provided. The cited paragraph of the office action states: "It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Touboul, Grace and Cox because Cox's teaching of determining a traffic load would increase the efficiency of Touboul's and Grace's systems by minimize the amount of failure cause by overloading a system object (col. 1, lines 11-15).

9. The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, one of ordinary skill in the art would know that overloading of a system object can be avoided by determining a traffic load associated with the system object. Accordingly, system failure caused by overloading is avoid, increasing the efficiency of the system.

In response to point (4), applicant's argument that Cox is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order

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to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Cox's system pertinent to the problem of reporting the traffic load of a network condition which is a problem that the applicant was concerned (i.e. reporting of context of a condition).


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